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mkraft@hp.com  
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*Technology Center 2600*

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/684,030  
Filing Date: October 09, 2003  
Appellant(s): GOSS ET AL.

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John P. Wagner, Jr.  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 8/26/08 appealing from the Office action  
mailed 11/21/07.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The Examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**NEW GROUND(S) OF REJECTION**

Claims 1-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,745,126	Jain et al.	5-1998
6,100,862	Sullivan	8-2000

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 101 (New Ground of Rejection)***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Said claims are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Based on Supreme Court precedent and recent Federal Circuit decisions, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For instance, the recited steps could be performed manually, without the use of a particular thing or product of another statutory class.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-15, 17-24 and 27-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Jain et al. (U.S. Patent No. 5, 745, 126).

In regard to claim 1 Jain et al. teaches a method and system for implementing for implementing the follow steps (col. 3, ll. 55-62; Figs. 1, 11B, 12). Jain et al. teaches determining a view volume (e.g., viewing frustum) of a viewing participant within said virtual environment ("The viewer can command the selection of real, or ... even the synthesis of virtual, video images of the scene in response to any of his or her desired and selected (i) spatial perspective on the scene, (ii) static or dynamically moving object appearing in the scene, or (iii) event depicted in the scene." – col. 7, ll. 37-43; "...monitors of the positions of the eyes might 'feed back' into the view presented by the MPI video system in a manner more akin to 'flying' in a virtual reality landscape than watching a football game--even as a live spectator. It may be possible for a viewer to 'swoop' onto the playing field, to 'circle' the stadium, and even, having crossed over to the 'other side' of the stadium, to pause for a look at that side's cheerleaders." – col. 42, ll. 24-35; "FIG. 13 is a graphical illustration showing the intersection formed by the rectangular viewing frustum of each camera scene onto the environment volume ... the filled frustum representing possible areas where the object can be located in the 3-D

Art Unit: 2628

model while, by use of multiple views, the intersection of the frustum from each camera will closely approximate the 3-D location and form of the object in the environment model.” – col. 11, ll. 66-67, and col. 12, ll. 1-7).

It is noted that the respective claim language fails to disclose how, if at all, a “viewing participant” is graphically represented within said virtual environment. Said language merely states that a viewing participant is within said virtual environment. Thus, it is noted that a viewer selected spatial perspective (e.g., camera), wherein said selected spatial perspective is located within a virtual environment, is considered to read on a viewing participant located within said virtual space as said selected spatial perspective defines said viewer's virtual persona within said virtual environment.

It is further noted that within the field of computer graphics the term “view frustum” (e.g., viewing frustum) is considered to be defined as a field of view. Irrespective, it is noted that said viewing frustum taught by Jain et al. defines a field-of-view of said viewing participant within said virtual environment as said viewing frustum defines a viewable region (e.g., field) of space visible to said participant based on a spatial perspective selected by said participant (col. 11, ll. 66-67, and col. 12, ll. 1-7; “...viewers may both (i) select cameras according to their preference...” – col. 20, ll. 43-47; Figs. 13, 17A-17D, 18, 19A-E, 20A-20D, 21).

Jain et al. implicitly teaches determining a proximity of a representation of an observed object in said virtual environment to said view volume (e.g., viewing frustum). It is noted that the respective claim language fails to disclose a value or a range of values that define a “proximity” and thus it is noted that an object located within a

Art Unit: 2628

viewing frustum is considered to read on being in proximity to said viewing frustum. As previously disclosed above Jain et al. teaches a plurality of viewing frustums, each specific to a respective camera, from which a filled viewing frustum is generated (FIG. 13 is a graphical illustration showing the intersection formed by the rectangular viewing frustum of each camera scene onto the environment volume ... the filled frustum representing possible areas where the object can be located in the 3-D model while, by use of multiple views, the intersection of the frustum from each camera will closely approximate the 3-D location and form of the object in the environment model." – col. 11, ll. 66-67, and col. 12, ll. 1-7). Whether or not said generated viewing volume (e.g., filled viewing frustum) is a view volume derived from one of said cameras or generated synthetically from a plurality of said cameras ("The present invention further concerns synthesizing a virtual video camera, and a virtual video image, from multiple real video images obtained by multiple real video cameras." – col. 1, ll. 24-27) said volume has respective bounds and the objects contained within said bounds must first be determined, in some manner, before the respective contents of said volume can be rendered for display.

Jain et al. implicitly teaches processing (e.g., displaying) a view dependent visual data stream of said observed object (e.g., a tracked football player; "For example ... a viewer of an American football game on video or on television can command a consistent 'best' view of (i) one particular player, or, alternatively (ii) the football itself as will be, from time to time, handled by many players. The system receives and processes multiple video views (images) generally of the football field, the football and

Art Unit: 2628

the players within the game. The system classifies, tags and tracks objects in the scene, including static objects such as field markers, and dynamically moving objects such as the football and the football players..." – col. 7, ll. 51-64) only when said representation is within a specified proximity to (e.g., within) a current view volume because a viewing frustum dictates what is visually displayed and anything outside of said frustum is not displayed while said frustum is the current viewing frustum ("...an object that is out of view, too small, and/or occluded from view in one camera is in view, large and/or un-occluded to the view of another camera." – col. 34, ll. 43-45; Fig. 17). It is noted that the respective claim language fails to disclose what exactly constitutes "processing" (l. 8) and thus "processing" is considered to read on "displaying" as displaying requires computer processing.

Consider for example the following scenario. If a user or said system selects a spatial perspective which only contains a quarterback from team 1, at the time of said selection, and the football is hiked other tracked players, be it from team 1 or team 2, will not be immediately visible in the viewing frustum established by said selected spatial perspective until said tracked players enter into said viewing frustum (e.g., a player from team 2 tackles said quarterback).

Consider for example Figs. 17A-17D. If a user or said system selects camera 2 (e.g., a spatial perspective) located within said scene, which establishes a respective viewing frustum, that omits walker2 at time 00:21:29:15 and said user continues to watch camera 2 said user would see walker2 entering said viewing frustum. This is



Art Unit: 2628

evidenced by Fig. 17A which at a later time 00:21:32:24 illustrates walker2 at a location in said scene that is present in the viewing frustums of both Figs. 17A and 17B.

In regard to claim 2 Jain et al. teaches computing a 3D model of said observed object, said three-dimensional model based on a plurality of real-time video streams taken of said observed object from a plurality of sample viewpoints ("The present invention further concerns synthesizing a virtual video camera, and a virtual video image, from multiple real video images obtained by multiple real video cameras." – col. 1, ll. 24-27; "The present invention still further concerns (i) interactive synthesis of video, or television, images on demand, (ii) the synthesis of virtual video images in real time..." – col. 1, ll. 34-41; "Objects of interest in the scene are identified and classified in these two-dimensional images. These multiple two-dimensional images of the scene, and their accompanying object information, are then combined in a computer into a three-dimensional video database, or model, of the scene." – col. 8, ll. 55-60; col. 11, ll. 66-67, and col. 12, ll. 1-7; Figs. 13, 17A-17D, 18, 19A-E, 20A-20D, 21).

In regard to claim 3 the rationale disclosed in the rejection of claims 1 and 2 are incorporated herein. It is noted that a new view synthesis technique is considered to read on a new viewpoint (e.g., the user selection of a different spatial perspective).

In regard to claim 4 Jain et al. teaches sending said visual data stream to said viewing participant (Fig. 1, specifically element 18; Figs. 13, 17A-17D, 18, 19A-E, 20A-20D, 21).

In regard to claim 7 Jain et al. teaches: determining that said representation is within said specified proximity (the rationale disclosed in the rejection of claim 1 is

Art Unit: 2628

incorporated herein); determining when said representation is occluded in said view volume such that said observed is not visible to said viewing participant ("...an object that is out of view, too small, and/or occluded from view in one camera is in view, large and/or un-occluded to the view of another camera." – col. 34, ll. 43-45); not generating said video image stream when said representation is occluded (col. 18, ll. 19-26; col. 29, ll. 59-65; "...even though the object Walker number two (#2) 2 is visible in Camera number one (#1), that particular observation is not used since its bounding box intersects the bottom of the image. Obviously, when an object's bounding box intersects the bottom of the image, its full extent cannot be determined and should be ignored." – col. 35, ll. 35-40).

In regard to claim 8 Jain et al. teaches providing for hysteresis (e.g., maintaining video information even though it may no longer be associated with a given displayed object – col. 8, ll. 55-60; col. 14, ll. 60-64; col. 18, ll. 27-30) and anticipation (e.g., advanced determination of needed video information – col. 25, ll. 5-11; col. 26, ll. 24-31) in delivering said video image stream to said viewing participant. It is noted that the area surrounding (e.g., football field) an observed object (e.g., football player or football) within said 3D virtual environment is considered to read on an extended boundary located within said virtual environment as said area establishes an additional bounding region in which said observed objects operate (e.g., said viewing frustum will dictate what is viewed by a given user and a football field will dictate, at least to some extent, how and where objects, such as players and the football, will move).

In regard to claim 9 the rationale disclosed in the rejection of claim 3 is incorporated herein. It is noted that when a given spatial perspective is selected by a user, be it the first spatial perspective chosen or another spatial perspective, that a respective viewing frustum (e.g., view volume) is generated for said respective spatial perspective (Figs. 13, 17A-17D, 18, 19A-E, 20A-20D, 21).

In regard to claim 10 the rationale disclosed in the rejection of claim 7 is incorporated herein (specifically: col. 18, ll. 19-26; "Camera handoff should be understood to be the event in which a dynamic object passes from one camera coverage zone to another. The multi-perspective perception system must maintain a consistent representation of an object's identity and behavior during camera handoff. This requires the maintenance of information about the object's position, its motion, etc." – col. 29, ll. 59-65).

In regard to claim 11 it is noted, for example, that a tracked football player is considered a local participant (e.g., said football player is localized to the respective football game both said player and said viewer are participating in).

In regard to claim 12 Jain et al. teaches a virtual collaborative environment that can be utilized by a plurality (e.g., N-way) of users ("...subsequently identify and track all user/viewer-selected objects and events (and still others for other users/viewers) in the scene." – col. 8, ll. 10-15; col. 14, ll. 43-59; "Technology has now advanced to the state that each of many simultaneous remote viewers (i) can be provided with a choice to so view remotely from whatever perspective they want, and, with limitations, (ii) can interactively select just what in the remote scene they want to view." – col. 16, ll. 17-21).

In regard to claim 13 the rationale disclosed in the rejection of claim 1 is incorporated herein. It is noted that Fig. 12 illustrates a view volume generator (e.g., object-view association & camera handoff block) and a comparator (e.g., 3D occupancy estimation block). It is inherent that said system comprises at least one processor for implementing said MPI video system as Jain et al. teach processing computer information (...information computed during system processing..." – col. 11, ll. 57-65; "...microprocessors are likely distributable to each of the Camera Sequence Buffers..." – col. 18, ll. 52-56; col. 21, ll. 37-44).

In regard to claim 14 the rationale disclosed in the rejection of claims 1-3 are incorporated herein. It is noted that Fig. 12 illustrates a model generator (e.g., dynamic model block) and a new view synthesis module (e.g., dynamic object detection block).

In regard to claim 15 the rationale disclosed in the rejection of claim 4 is incorporated herein. It is inherent the said system comprises at least one transmitter as Jain et al. teaches transmitting information to users of said system ("...more video data than is within a modern television channel may usefully be transmitted to each viewer." – col. 3, ll. 12-14).

In regard to claim 17 the rationale disclosed in the rejection of claim 7 is incorporated herein.

In regard to claim 18 the rationale disclosed in the rejection of claim 8 is incorporated herein.

In regard to claim 19 Jain et al. teaches enabling a change in a location of said viewing participant (e.g., currently selected spatial perspective) to a new location (e.g.,

Art Unit: 2628

selection of a different spatial perspective such as another football player) within said virtual environment by changing said view volume of said viewing participant within said virtual environment to reflect said new location ("The viewer can command the selection of real, or ... even the synthesis of virtual, video images of the scene in response to any of his or her desired and selected (i) spatial perspective on the scene, (ii) static or dynamically moving object appearing in the scene, or (iii) event depicted in the scene." – col. 7, ll. 37-43; Figs. 13, 17A-17D, 18, 19A-E, 20A-20D, 21).

In regard to claim 20 the rationale disclosed in the rejection of claim 10 is incorporated herein.

In regard to claim 21 Jain et al. the rationale disclosed in the rejection of claim 1 is incorporated herein. It is inherent that said system comprises at least one processor for implementing said MPI video system as Jain et al. teach processing computer information (...information computed during system processing..." – col. 11, ll. 57-65; "...microprocessors are likely distributable to each of the Camera Sequence Buffers..." – col. 18, ll. 52-56; col. 21, ll. 37-44). Jain et al. teaches that said system requires the use of software ("Clearly, implementation of an MPI video system with unrestricted capability requires state-of-the art computer hardware and software..." – col. 19, ll. 35-38). It is inherent that for said software to be executed by said system that said software must be stored, at least for some period of time, in computer readable memory.

In regard to claim 22 the rationale disclosed in the rejection of claim 2 is incorporated herein.

Art Unit: 2628

In regard to claim 23 the rationale disclosed in the rejection of claim 3 is incorporated herein.

In regard to claim 24 the rationale disclosed in the rejection of claim 4 is incorporated herein.

In regard to claim 27 the rationale disclosed in the rejection of claim 7 is incorporated herein.

In regard to claim 28 the rationale disclosed in the rejection of claim 8 is incorporated herein.

In regard to claim 29 the rationale disclosed in the rejection of claim 9 is incorporated herein.

In regard to claim 30 the rationale disclosed in the rejection of claim 10 is incorporated herein.

In regard to claim 31 the rationale disclosed in the rejection of claim 11 is incorporated herein.

In regard to claim 32 the rationale disclosed in the rejection of claim 12 is incorporated herein.

In regard to claim 33 Jain et al. the rationale disclosed in the rejection of claim 1 is incorporated herein. Jain et al. teaches that said system requires the use of software ("Clearly, implementation of an MPI video system with unrestricted capability requires state-of-the art computer hardware and software..." – col. 19, ll. 35-38). It is inherent that for said software to be executed by said system that said software must be stored, at least for some period of time, in computer readable memory.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, 16, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al. (U.S. Patent No. 5, 745, 126), as applied to claims 1-4, 7-15, 17-24 and 27-33, in view of Sullivan (U.S. Patent No. 6, 100, 862).

In regard to claim 5 it is noted that a given spatial perspective is considered to contain a respective view direction. However, Jain et al. fails to explicitly teach wherein said view volume comprises a series of expanding cross-sections of a geometric object along a given view direction. Sullivan teaches a multi-planar volumetric display (MVD) system and method of operation which generate volumetric 3D images (col. 2, ll. 56-58). Sullivan teaches that a view volume comprises a series of expanding cross-sections (e.g., images) of a geometric object along a given view direction (col. 6, ll. 22-33; Fig. 1). It would have been obvious to one skilled in the art, at the time of the Applicant's invention, to incorporate the teachings of Sullivan into the system taught by Jain et al., because such incorporation would provide an improved means of displaying the graphic information generated by Jain et al. as said information would be presented in 3D which would provide a more realistic graphic viewing experience.

In regard to claim 6 Jain et al. teaches that the system receives and processes multiple video views (e.g., images) generally of the football field (col. 7, ll. 55-57). It is noted that a football field is considered to read on a four-sided rectangular plane.

In regard to claim 16 the rationale disclosed in the rejection of claim 5 is incorporated herein.

In regard to claim 25 the rationale disclosed in the rejection of claim 5 is incorporated herein.

In regard to claim 26 the rationale disclosed in the rejection of claim 6 is incorporated herein.

#### **(10) Response to Argument**

In response to Appellant's remarks that (1) Appellants do not understand Jain's selected object or event to be capable of moving in or out of Jain's view volume for Jain's selected object/event, (2) Appellants do not understand Jain to teach or suggestion processing a view dependent visual data stream of an observed object only when said representation is within a specified proximity of a view volume of Jain's camera and (3) Appellants do not understand Jain to teach or suggest processing a view dependent visual data stream of said observed object only when said representation is within a specified proximity of said view volume where said view volume defines a field-of-view of said viewing participant within said virtual environment it is noted that the Examiner does not agree. It is noted that the respective above rejections have been further clarified to fully address said remarks.

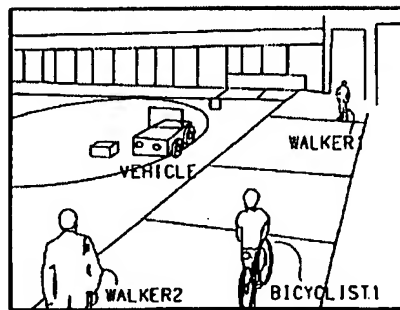


Specifically, Jain et al. teaches: "The system of the invention is powerful (i) in accepting viewer specification at a high level of those particular objects and/or events in the scene that the user/viewer desires to be shown, and (ii) to subsequently identify and track all user/viewer-selected objects and events (and still others for other users/viewers) in the scene." – col. 7, ll. 10-15; "The viewer can command the selection of real, or ... even the synthesis of virtual, video images of the scene in response to any of his or her desired and selected (i) spatial perspective on the scene, (ii) static or dynamically moving object appearing in the scene, or (iii) event depicted in the scene." – col. 7, ll. 37-43; "...The system classifies, tags and tracks objects in the scene, including static objects such as field markers, and dynamically moving objects such as the football and the football players..." – col. 7, ll. 51-64; "...an object that is out of view, too small, and/or occluded from view in one camera is in view, large and/or un-occluded to the view of another camera." – col. 34, ll. 43-45; "FIG. 13 is a graphical illustration showing the intersection formed by the rectangular viewing frustum of each camera scene onto the environment volume ... the filled frustum representing possible areas where the object can be located in the 3-D model while, by use of multiple views, the intersection of the frustum from each camera will closely approximate the 3-D location and form of the object in the environment model." – col. 11, ll. 66-67, and col. 12, ll. 1-7; Figs. 18, 17A-17D, 19A-19E, 20A-20D, 21).

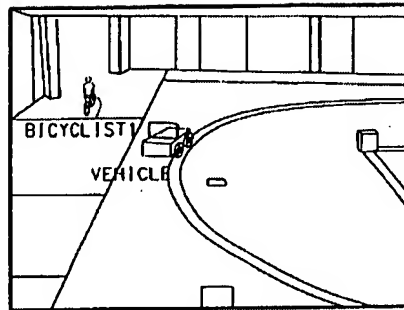
In other words Jain et al. teaches selecting, tracking and displaying both mobile (e.g., football player, football, person walking, person bicycling, etc.) and static (e.g., walkway, etc.) objects located within a scene. Displaying is implemented via the use of

Art Unit: 2628

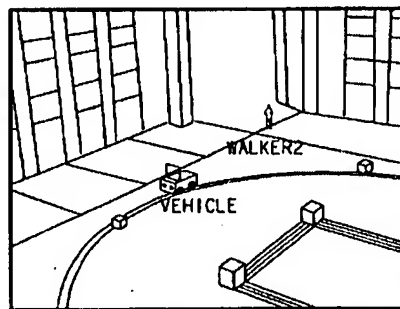
a viewing frustum defined by a respective selected spatial perspective, wherein no one viewing frustum is able to capture the whole scene in its entirety. For example, in Figs. 17A-17D Jain et al. illustrates two people walking, one person bicycling and a moving vehicle ("FIGS. 17a through 17d are four pictorial views of the campus courtyard ... the scene containing four moving objects including a vehicle, two walkers and a bicyclist.") . Each of said Figs. 17A-17D illustrate a respective view frustum as defined by a respective spatial perspective (e.g., camera such as camera 1, 2, 3 or 4) wherein only a single viewing frustum is displayed at a time ("...but at any given time only a single best camera is used..." – col. 18, ll. 23-36). It is the position of the Examiner that for each viewing frustum one is only able to view the objects located within said scene when said objects are within said viewing frustum (e.g., within a specified proximity of said view volume).



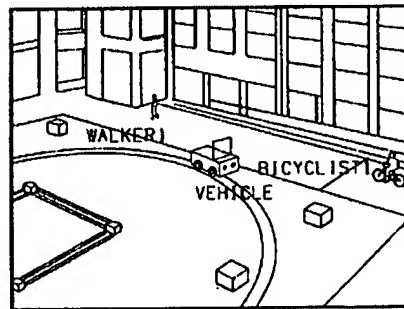
CAMERA 1  
VIDEO FRAME 00:21:31:24 FIG. 17a



CAMERA 2  
VIDEO FRAME 00:21:29:15 FIG. 17b



CAMERA 3  
VIDEO FRAME 00:22:29:05 FIG. 17c



CAMERA 4  
VIDEO FRAME 00:20:09:18 FIG. 17d

For example, if a user or said system selects camera 2 (e.g., a spatial perspective) located within said scene, which establishes a respective viewing frustum, that omits walker2 at time 00:21:29:15 and said user continues to watch camera 2 said user would see walker2 entering said viewing frustum. This is evidenced by Fig. 17A which at a later time 00:21:32:24 illustrates walker2 at a location in said scene that is present in the viewing frustums of both Figs. 17A and 17B.

#### (11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this Examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This Examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte dismissal of the appeal* as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary Examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary Examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Art Unit: 2628

Respectfully submitted,

/Peter-Anthony Pappas/

Primary Examiner, Art Unit 2628

**A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:**


Conferees:

/Ulka Chauhan/

Supervisory Patent Examiner, Art Unit 2628

/Kee M Tung/

Supervisory Patent Examiner, Art Unit 2628

  
MARIAN C. KNODE  
DIRECTOR  
TECHNOLOGY CENTER 1700